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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/673,628	12/08/2000	Masato Higashi	43890-448	3423

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EXAMINER

RIMELL, SAMUEL G

ART UNIT	PAPER NUMBER
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2175

DATE MAILED: 07/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/673,628

Applicant(s)

HIGASHI, MASATO

Examiner

Sam Rimell

Art Unit

2175

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**SAM RIMELL**  
**PRIMARY EXAMINER**

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Bealkowski et al.. ('075).

Claim 1: Bealkowski et al. discloses a computer system (FIG. 1B) which includes a plurality of disk devices (individual computers 102 and 102B). Each disk device (individual computer) includes a first memory composed of two memory banks (col. 17, lines 48-49) which are for the purpose of storing firmware. As described at col. 17, lines 46-55, the system includes an update program for updating the firmware stored in the first memory.

Claim 2: Bealkowski et al. discloses a computer system (FIG. 1B) which includes a plurality of disk devices (individual computers 102 and 102B). Each disk device (individual computer) includes a first memory and second memory composed of two memory banks (col. 17, lines 48-49) which have the purpose of storing firmware. Col. 19, lines 23-31 describe the steps of starting an updating program, then transmitting and storing the firmware in both the first and second memories (memory banks). This has the effect of the updating the existing firmware in these memory banks.

Claim 3: Col. 18, lines 49-52 describe each memory bank as being associated with a "version number" and "sequence number" of the firmware contained in that bank. When a bank

is reprogrammed with new firmware, the new firmware will inherently bring with it a new version number. The version number reads as the "revision number".

Claim 4-6: As seen in col. 18, lines 49-52, each version of firmware comes with a version number and a sequence number, which read as the respective "revision number" and "model number". Firmware having any revision number or model number may be stored in the updating program and used to update any existing revision numbers and model numbers already residing in the firmware contained in the memory banks.

Claim 7: The updating can occur automatically after a power-up (col. 19, lines 53-55).

Claim 8: One of the two memory banks (col. 17, lines 48-49) can read as the second memory.

Claim 9: Firmware of one disk device (computer) can be updated to another of the disk devices (another computer). See FIG. 1B and col. 3, lines 37-43.

Claim 10: Col. 18, lines 49-56 describe a version code or version number, which is a parameter of the firmware. The version code of one memory bank is compared to the version code of another memory bank to determine if the memory firmware in one of the memory banks needs updating. This process can occur in each of the disk devices (individual computers 102, 102B).

Claim 11: See remarks for claim 10.

Claim 12: Each disk device (individual computer 102 or 102B) includes first and second memories, which are the first and second memory banks (col. 17, lines 47-48).

Claim 13: See remarks for claim 10.

Remarks

Applicant's arguments and amendments have been considered. Applicant argues that Bealkowski et al. lacks firmware stored on different disk devices. However, in reviewing the disclosure of Bealkowski et al., Examiner finds that Bealkowski et al. discloses a system in FIG. 1B which is readable as a computer and individual computers which are readable as disk devices. Taking from this perspective, Bealkowski et al. is found to disclose a computer (the system of FIG. 1) having a plurality of disk devices (individual computers 102, 102B) each having memory (memory banks) which store versions of firmware. The system also interacts with an updating program (col. 17, lines 46-55) that updates the versions of the firmware in the memory banks.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (703) 306-5626.



Sam Rimell  
Primary Examiner  
Art Unit 2175